

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

CIVIL REVISION APPLICATION No 200 of 1999

For Approval and Signature:

Hon'ble MR.JUSTICE M.S.PARIKH

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
 2. To be referred to the Reporter or not?
 3. Whether Their Lordships wish to see the fair copy of the judgement?
 4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
 5. Whether it is to be circulated to the Civil Judge?

AMBALAL JIVABHAI PATEL

Versus

MUKESHKUMAR MADHUSUDAN THAKER

Appearance:

MR MB GANDHI for Petitioner
MR SD PATEL for Respondent No. 1, 4, 5
NOTICE SERVED for Respondent No. 3

CORAM : MR.JUSTICE M.S.PARIKH

Date of decision: 23/04/99

ORAL JUDGEMENT :

By an order dated 9.2.1999, rule was issued and the parties were directed to maintain status quo with regard to the suit property. Today, the matter is finally heard. The appellate court has relied upon exhibit 3/21 for reversing the order of the trial court as per her impugned judgment and order dated 28.12.1998. Both the learned advocates have submitted to this Court a

copy of exhibit 3/21 for consideration. On going through the document, exhibit 3/21, which is couched as 'compromise' (in vernacular), it is not clearly set out as to what are the particulars of land, by describing the same with survey no.(s). There has been a reference to some land in the opening part of the document and to some other land in other part of the document. Therefore, without there being any clarification with regard to whether exh.3/21 pertains to the suit land it would not be possible for the Court to come to the conclusion that exh.3/21 would relate to the suit land. In that view of the matter the impugned order passed by the appellate court deserves to be set aside with a direction to remand the matter to the appellate court as per the following order.

2. The impugned order dated 28.12.1998 rendered by the learned 2nd Extra Assistant Judge, Nadiad, District Kheda in Civil Misc. Appeal No.272 of 1998 is hereby set aside and the Appeal is revived. The matter is remanded to the appellate court for hearing and deciding the same afresh, strictly on merits. The learned advocates for the parties will specifically deal with exhibit 3/21 in the context of the parcel of land to which exhibit 3/21 would relate.

3. The appeal shall accordingly be heard and decided as expeditiously as possible, preferably within three months from the date of receipt of writ of this order. Status quo granted by this Court to continue till the Appeal is finally disposed of. Rule is made absolute in the aforesaid terms.

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